



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

**WAGGONER CARR  
ATTORNEY GENERAL**

September 24, 1963

Honorable W. C. Lindsey  
Criminal District Attorney  
Jefferson County  
Beaumont, Texas

Opinion No. C- 146

Re: Whether a married woman  
may legally be a surety  
on the various types of  
bonds used by the Sheriff's  
Department and related  
question.

Dear Mr. Lindsey:

The questions submitted in your letter of September  
10, 1963, are as follows:

"Whether or not a married woman may  
legally be a surety on the various types  
of bonds used by the Sheriff's Department?  
If so, may her exempt separate property and/or  
community property be levied on in the event  
of a forfeiture?"

Article 4624 of Vernon's Civil Statutes has recently  
been amended by the 58th Legislature to read as follows:

"Upon the trial of any suit based upon  
a contract of the wife, the court shall de-  
cree that judgment may be levied upon her  
separate property, upon revenues from her  
separate property, or upon her personal  
earnings, . . ."

Article 4626 of Vernon's Civil Statutes has been  
amended to read:

"A married woman shall have the same  
powers and capacity as if she were a feme  
sole, in her own name, to contract and be  
contracted with, sue and be sued, and all  
her separate property, her personal earnings  
and the revenues from her separate estate

which is not exempt from execution under the laws of Texas shall thereafter be subject to her debts and be liable therefor, and her contracts and obligations shall be binding on her." (Emphasis added)

Article 4621 of Vernon's Civil Statutes has been amended to read as follows:

"The community property of the husband and wife, other than the personal earnings of the wife and the revenues from her separate property, shall not be liable for debts or damages resulting from contracts of the wife, except for necessities furnished herself and children, unless the husband joins in the execution of the contract; provided that her rights with reference to the community property on permanent abandonment by the husband shall not be affected by this provision."

A bond is defined in Texas Jurisprudence Second as, "an obligatory instrument in writing whereby one binds himself to pay a sum of money or to do some other act. Any instrument in writing that legally binds a person to do a certain thing may be called a bond; in this sense the term implies nothing more than a contract." 9 Tex.Jur.2d 420, Bonds, Sec. 1. Article 4626, quoted above, clearly gives a married woman the power to contract in her own name. That Article also makes a married woman's separate property, personal earnings, and non-exempt revenues from her separate estate liable for her debts. Article 4624, quoted above, makes the separate property, personal earnings, and revenues from her separate property subject to execution to satisfy her debts. Under Article 4621, quoted above, the community property other than the personal earnings of the wife and the revenues from her separate property, would not be liable for the contracts of the wife without the joinder of the husband, except for necessities furnished herself and children.

It is the opinion of this office that a bond is a contract within the purview of Article 4626 and that a married woman may legally be a surety on the various types of bonds used by the Sheriff's Department without the joinder of her husband. However, such a bond would bind only the separate property, personal earnings, and non-exempt revenue

from the separate estate of the married woman. A bond entered into by the wife alone could not bind the community property, other than the personal earnings of the wife and the revenues from her separate property.

S U M M A R Y

A married woman may legally be a surety on the various types of bonds used by the Sheriff's Department. A married woman may bind her separate property on such a bond but she may not bind the community property other than the personal earnings of the wife and the revenues from her separate property without the joinder of her husband.

Yours very truly,

WAGGONER CARR  
Attorney General

*Jack A. Norwood*  
By:

Jack G. Norwood  
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APPROVED:  
OPINION COMMITTEE

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APPROVED FOR THE ATTORNEY GENERAL  
BY: Stanton Stone